

THE HONORABLE JAMES L. ROBART

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

BRADY EDMONDS, on behalf of himself
and those similarly situated,
Plaintiff,

v.

AMAZON.COM, INC., a Foreign for Profit
Corporation; AMAZON LOGISTICS, INC.,
a Foreign for Profit Corporation;
AMAZON.COM SERVICES, INC., a
Foreign for Profit Corporation;
Defendants.

No. 2:19-cv-01613-JLR

SECOND JOINT STATUS REPORT
AND DISCOVERY PLAN

In accordance with Federal Rule of Civil Procedure 26(f), Local Civil Rule 26(f), and the Court's Minute Order dated November 12, 2020, counsel for the parties jointly submit the following Second Joint Status Report and Discovery Plan.

1. Statement of the nature and complexity of the case

This is a lawsuit for the alleged failure to pay overtime wages under the Fair Labor Standards Act of 1938, 29 U.S.C. § 201 *et seq.* ("FLSA"). Plaintiff Brady Edmonds ("Edmonds") is a former employee of a Delivery Service Provider ("DSP"), a last mile delivery service company that contracts with Amazon. Edmonds alleges that he was jointly employed by

Amazon.com, Inc., Amazon Logistics, Inc., and/or Amazon.com Services LLC (formerly Amazon.com Services, Inc.) (together, “Amazon” or “Defendants”). Edmonds brings this action individually and on behalf of others similarly situated, contending that he and other current and former Delivery Associates (“DAs”), who he alleges were also jointly employed by Amazon, are owed overtime compensation that has been unpaid. The Court denied Edmonds’ motion to certify a proposed collective under Section 216(b) of the FLSA. In his First Amended Complaint, Edmonds asserts a single claim against Amazon for unpaid overtime. Edmonds seeks to recover liquidated damages in the amount equal to the unpaid overtime wages allegedly owed to Edmonds, and attorneys’ fees and costs.

Amazon believes that Edmonds’ claims are without merit. Amazon maintains that it did not employ or jointly employ Edmonds, was not responsible for setting or implementing DSPs’ payment practices, and did not direct or participate in any wrongful conduct.

The parties agree that Edmonds’ individual claims are not particularly complex, however the issue of whether Amazon is a joint employer of Edmonds is moderately complex.

2. Proposed deadline for the joining of additional parties

This deadline has passed.

3. Assignment to U.S. Magistrate Mary Alice Theiler

No.

4. Proposed Discovery Plan

A. Initial Disclosures

This deadline has passed.

B. Subjects, timing, and potential phasing of discovery

1 The parties anticipate taking discovery in accordance with the applicable rules and case
2 law on subjects pertinent to their claims and/or defenses.

3
4 Plaintiff anticipates seeking discovery in support of his claims for unpaid overtime
5 against Amazon as an employer as alleged in the Amended Complaint. Among other things,
6 Plaintiff will serve written discovery requests and/or subpoenas seeking information and records
7 in the possession, custody, or control of Amazon and others regarding Plaintiff's claims and
8 Defendants' defenses. Without providing an exhaustive list of topics, Plaintiff reasonably
9 anticipates he will seek discovery relating to : (i) Amazon's role as an employer; (ii) the DSP
10 program at its initiation as well as subsequent iterations; (iii) communications from and within
11 Amazon relating to the DSP program; (iv) communications from Amazon to DSPs and DAs; (v)
12 Amazon's collection of data through the use of Rabbit/DORA/Amazon Flex applications; (vi)
13 Amazon's DSP contracts; and (vii) time keeping and payroll data. Plaintiff will seek other
14 discovery regarding factual and legal issues and defenses as they arise in discovery. Plaintiff
15 also anticipates taking the depositions of Amazon's corporate representatives; other key leaders
16 identified with the DSP program; fact witnesses familiar with the DSP program; DSP corporate
17 representatives; and experts.
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19
20 Defendants anticipate seeking discovery in relation to the nature and the basis (or lack
21 thereof) for Edmonds' individual allegations and Defendants' defenses. Among other things,
22 Defendants will take Edmonds' deposition. Defendants will serve written discovery requests
23 and/or subpoenas seeking information and records in Edmonds' and others' possession, custody,
24 or control, including regarding: the terms and conditions of Edmonds' employment with a third-
25 party Delivery Service Provider; communications or understandings regarding the manner and
26

method of payment; and claimed damages and any efforts to mitigate such damages. Defendants may seek discovery regarding other factual and legal issues and defenses identified through discovery.

Accordingly, the parties propose the following case schedule:

EVENT	DATE
Deadline for joining additional parties	This deadline has passed.
Deadline for amending pleadings	This deadline has passed.
Deadline to file motion for summary judgment (to be noted for 6/25/21)	May 21, 2021
Opposition briefs in relation to motion for summary judgment or other motions noted for 6/25/21	June 21, 2021
Reply briefs in relation to motion for summary judgment or other motions noted for 6/25/21	June 25, 2021

C. Electronically stored information

The parties anticipate that discovery may include a moderate amount of electronically stored information (“ESI”) and will develop appropriate protocols for managing such information, including adoption of this district’s Model Agreement Regarding Discovery of ESI, with minor modifications. The parties do not presently anticipate the discovery of ESI to present unique or complex issues.

D. Privilege issues

The parties do not believe that this case will involve unique claims of privilege or work product protection.

1 The parties agree that a protective order is appropriate in this action to limit disclosure of
 2 personnel, confidential, and proprietary information, and third party information. The parties
 3 anticipate that they will agree to a form of stipulated protective order based on this district's
 4 Model Stipulated Protective Order, including its provisions on inadvertent production of
 5 privileged information and the stipulated entry of a Federal Rule of Evidence 502(d) order. The
 6 parties will also confer on modifications to the model order to address certain privilege and work
 7 product issues, including contemplated agreements regarding privilege log issues.

8
 9 **E. Proposed limitation on discovery**

10 The parties agree that discovery shall be conducted pursuant to the Federal Rules of Civil
 11 Procedure and Local Civil Rules for the Western District of Washington. The parties do not
 12 currently see a need to change the discovery limitations imposed by those rules. The parties
 13 agree to confer and work cooperatively where possible regarding the scope of discovery, while
 14 may include stipulations to modify limitations imposed by the rules.

15
 16 **F. The need for any discovery related orders**

17 As previously noted, the parties anticipate presenting a stipulated protective order and an
 18 agreement regarding the discovery of ESI based on this district's model forms, with minor
 19 modifications. The parties do not currently request the Court to enter other discovery-related
 20 orders, except a preliminary case schedule through a decision on conditional collective
 21 certification.

22
 23 **1. The parties' views on the topics set forth in Local Rule 26(f)(1)**

24 **A. Prompt case resolution**

25 The parties plan to discuss settlement of Plaintiff's claims in the next several weeks.

1 **B. Alternative dispute resolution**

2 The parties are willing to consider alternative dispute resolution if the parties cannot
3 reach a resolution through direct discussions.

4 **C. Related cases**

5 Plaintiff believes that there are over a dozen related cases pending throughout the United
6 States regarding Amazon's failure to pay proper overtime to DAs employed through DSPs.

7 Amazon believes that this case is related to a case captioned *Thomas v JSTC, Inc. et al.*,
8 No. 19-cv-01528, pending in the Middle District of Florida. In that case the named plaintiffs
9 seek recovery of alleged overtime wages due on behalf of a putative collective action of Delivery
10 Partners employed by JSTC (Edmonds' employer) and other defendants.

11 **D. Discovery management**

12 The parties do not anticipate the need for extra discovery management, except for the
13 entry of the contemplated orders of protection and ESI, as referenced above. The parties will
14 work in good faith to minimize the costs of discovery, keeping in mind the proportionality
15 standard set forth in Federal Rule of Civil Procedure 26(b)(1). The parties do not believe that
16 any of the discovery management techniques described in Local Civil Rule 26(f)(1)(D) are
17 necessary at this time.

18 **E. Anticipated discovery sought**

19 The parties currently anticipate engaging in discovery in accordance with the applicable
20 rules as they relate to the asserted claims and defenses. Some of the discovery sought by the
21 parties may be in the custody and control of third-parties. Otherwise, counsel are experienced in
22 wage and hour and collective action litigation, and agree that this case does not appear to present
23 any unique discovery challenges or require any discovery beyond that which is typical in such
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1 cases. Please see Paragraph 4.B above for a further description of the discovery to be sought by
 2 the parties.

3
 4 **F. Phasing motions**

5 The parties do not anticipate a need for phasing motions at this time.

6 **G. Preservation of discoverable information**

7 The parties state that they have taken reasonable steps to ensure the preservation of
 8 documents and records relevant to this case. The parties are not aware of any specific issues
 9 regarding preservation at this time.

10 **H. Privilege issues**

11 The parties incorporate by reference the above Paragraph 4.D

12 **I. Model Protocol for Discovery of ESI**

13 The parties incorporate by reference the above Paragraph 4.E.

14 **J. Alternatives to Model Protocol**

15 N/A; the parties expect to adopt a modified version of the Model Agreement Regarding
 16 Discovery of ESI.

17 **6. The date by which discovery can be completed**

18 April 30, 2021

19 **7. Whether the case should be bifurcated in any way**

20 The parties do not currently agree that the case should be bifurcated.

21 **8. Whether the pretrial statements and pretrial order should be dispensed with**

22 The parties do not currently believe that the pretrial statement or pretrial order should be
 23 eliminated in whole or in part.
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 25
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9. Individualized Trial Program and ADR options

The parties do not believe this case is appropriate for the Individualized Trial Program.

The parties' views on ADR options are discussed above in Paragraph 5.B.

10. Suggestions for shortening or simplifying the case

The parties believe that early motions for summary judgment may be appropriate. The parties do not currently have any other suggestions for shortening or simplifying the case other than as described above.

11. The date the case will be ready for trial

September 1, 2021

12. Whether the trial will be jury or non-jury

Plaintiff has demanded a jury trial. (Dkt. 24).

13. The number of trial days required

Four to Five days.

14. The names, addresses, and telephone numbers of all trial counsel

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15. Trial scheduling complications

Defendants' counsel have scheduling conflicts on September 8-10, 2021 and October 18-25, 2021. In addition, due to heavy business demands, Amazon's witnesses may not be available for trial during November and December 2021. Otherwise, the parties do not foresee trial scheduling complications other than those faced by all litigants and attorneys during the pandemic.

16. Status of service

Defendants have accepted service.

1 **17. Scheduling conference needs**

2 The parties do not currently believe there is a need for a scheduling conference.

3 **18. Status of corporate disclosure statement**

4 Defendants filed a corporate disclosure statement on December 9, 2019. (Dkt. 20).

DATED November 23, 2020.

s/ Ryan D. Redekopp
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CERTIFICATE OF SERVICE

I hereby certify that on November 23, 2020, I caused to be electronically filed the foregoing SECOND JOINT STATUS REPORT AND DISCOVERY PLAN with the Clerk of Court using the CM/ECF system, which will automatically send email notification of such filing to the registered attorneys of record.

DATED November 23, 2020.

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